

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2354 of 2024.

In the matter of:

Petition under Section 86 of the Electricity Act, 2003 read with GERC (Gujarat Electricity Grid Code), Regulations 2013 and CERC (Indian Electricity Grid Code), Regulation 2010 (as amended from time to time) seeking directions to the Respondent to comply with the Grid Code and to take permanent measures to overcome the issue of high voltage in GETCO's Transmission System Line and to compensate the Petitioner for the financial loss suffered on account of generation loss due to continuous curtailment of the Petitioner's generation by GETCO.

Along with

IA No. 23 of 2024 in Petition No. 2354 of 2024.

In the matter of:

Application on behalf of the Applicant Fourth Partner Energy Pvt. Ltd. seeking urgent listing and hearing of the Petition No. 2354 of 2024.

Petitioner : Fourth Partner Energy Private Limited
Represented by : Ld. Adv. Mr. Vishro Mukherjee, and Mr. Pratyush Singh
Respondent : Gujarat Energy Transmission Corporation Ltd.
Represented By : Ld. Adv. Mr. Anand Ganesan along with Mr. S. K. Nair. Mr. D.H. Kalsariya and Mr. C.A.Pandit

CORAM:

**Mehul M. Gandhi, Member
S.R. Pandey, Member**

Date: 09/12/2024.

DAILY ORDER

1. The matter was kept for hearing on 18.07.2024.
2. Mr. Vishrov Mukherjee appearing on behalf of the Petitioner submitted that the present Petition is filed under Section 86 of the Electricity Act, 2003 read with GERC (Gujarat Electricity Grid Code) Regulations, 2013 and CERC (Indian Electricity Grid Code) Regulations, 2010 (as amended from time to time) seeking directions to the Respondent to comply with the Grid Code and to take permanent measures to overcome the issue of high voltage in GETCO's Transmission System and overloading of 66 kV Jetpur-Mevasa Transmission Line and to compensate the Petitioner for the financial loss suffered on account of generation loss due to continuous curtailment of Petitioner's generation by GETCO.
 - 2.1. It is submitted that the Petitioner through its affiliates/subsidiaries has Wind-Solar Hybrid Power Project (Wind: 37.8 MW and Solar: 20.13 MW) located at Village Umrali, Dist.: Rajkot. The power generated from the project is supplied to its captive users for self-consumption and third parties through Open Access.
 - 2.2. It is submitted that on 18.01.2021, the Respondent GETCO has granted 40 MW connectivity and evacuation of wind generation at 66 KV Mevasa Sub-station of GETCO from wind farms, after conducting system study for maximum injection of 40 MW power from the project at any given time. It is submitted that the wind projects

was commissioned in phase manner from 03.06.2023 to 15.06.2023. The 66 KV Mevasa Sub-station of GETCO is connected to various other Sub-stations including Jetpur Sub-station through GETCO 66 KV Jetpur-Mevasa Line.

- 2.3. It is submitted that the Petitioner has been following the prudent industry practice for operation of aforesaid project and are in compliance with the relevant regulations for scheduling of power. However, generation of power from the project is being curtailed / backed down by GETCO on continuous basis since 27.06.2023 onwards after 12 days from commissioning of the project on account of (i) High Voltage in GETCO's Transmission System resulting in consistent tripping (ii) Inadequate GETCO Transmission System to evacuate 40 MW Power from the project. The Respondent GETCO itself has admitted this position vide its email dated 27.06.2023, 14.08.2023 and 18.01.2024.
- 2.4. It is submitted that due to continuous curtailment and sudden tripping, the entire apparatus for the generation and supply of electricity gets adversely impacted. Further, power generation from the project is being curtailed mostly during peak wind and solar generation hours resulting in huge generation and revenue loss for the petitioner.
- 2.5. It is further submitted that GEDA has granted the permission to establish the wind and solar project on 08.08.2022 for setting up of 43.86 MW (29.70MW Wind + 14.16MW(AC) Solar) and revised the developer permission on 24.01.2023 for setting

up of 58.155 MW (37.8 MW Wind + 20.355 MW(AC) Solar) to M/s Vartman Energy Private Limited as a Developer of Wind-Solar Hybrid Project (Developer Permission). In terms of the developer permission, M/s Vartman Energy Private Limited was permitted to transfer the wind and solar project to prospective clients with GEDA's approval. The Wind and Solar project was transferred from M/s.Vartman Energy Private Limited to various entities. It is submitted that the Project has been set up and operated by the Petitioner through its affiliates/Subsidiaries.

2.6. It is submitted that despite of admitting that its transmission system is inadequate to carry 40 MW Power from the Petitioner's project, the Respondent GETCO till date has failed to take any remedial measures in this regard and the Petitioner's project continue to face curtailment on continuous basis resulting in huge generation and financial loss. It is responsibility of the GETCO to make available sanctioned transmission capacity for evacuation of power from the project. However, the Respondent GETCO has failed to act as per the provisions of Electricity Act, Gujarat Grid Code and Indian Electricity Grid Code.

2.7. It is submitted that the Respondent GETCO had communicated to the Petitioner for curtailment of power generation and overloading at the Petitioner's project. It is further submitted that the project was commissioned in June 2023 and sudden instructions to curtail project capacity has worried the stakeholder's of the Project. Being a holding company, the Petitioner had communicated with the Respondent

GETCO for the aforesaid issue as STU(GETCO) has not fulfilled its duty to ensure generation capacity up to 40 MW.

- 2.8. On the query of the Commission in regard to prove that the Petitioner is a affected party in the present Petition, the Ld. Adv. of the Petitioner submitted that under Section 86 (1) (c) of the Electricity Act, 2003 the Petitioner has filed the present Petition to facilitate intra-state transmission and wheeling activities to its affiliates/subsidiaries who has set up and operate wind-solar Hybrid power project. Further, on the query of the Commission, that who can approach before the commission for the relief sought in the Petition, in reply to same, it is submitted that Regulation 23 of GERC's (Conduct of Business) Regulations, state about that the affected person, can approach before the commission.
- 2.9. It is further submitted that the Commission has power to issue appropriate directives to GETCO including the direction for payment of compensation by the defaulting party by exercising regulatory powers.
3. Ld. Adv. Mr. Anand Ganesan appearing on behalf of the Respondent GETCO has raised preliminary objections with regard to maintainability of the present Petition.
- 3.1. It is submitted that the Power Projects referred to in the Petition are not in name of the Petitioner but in name of various other entities. The Petitioner is neither Generating Company nor the Consumer and therefore, it has no legal locus in raising issues on the sufficiency or adequacy of the transmission network for generating

units which is owned and operated by other legal entities. Thus, it cannot be said that the Petitioner is aggrieved / affected with the technical constraints in the transmission system related to the project of the other entities. The Petitioner is raising claims and seeking relief which relates to other legal entities, which cannot be permitted.

- 3.2. It is submitted that the Petitioner is not the entity which can be said to legally and directly affected by the alleged acts of Respondent GETCO or any constrains in the transmission system. There is no cause of action as established to maintain the present Petition. Even in terms of Order VII Rule 11 of the Code of Civil Procedure also, the plaint which does not disclose a cause of action is liable to dismissed.
- 3.3. It is further submitted that there is no single power project company of 40 MW, there are eight generating companies, i.e. FPEL Crysta Energy Pvt. Ltd and others, independent legal entities who are connected to the 66KV pooling sub-station which thereafter connected to the grid through 66 KV Mevasa sub-station of the Respondent GETCO. It is further submitted that as per GEDA Permission vide its letter dated 09.05.2023 to the above entities, it is not single project but several power projects of the above entities. It is further submitted that the Petitioner is not the third party consumer nor the Open Access consumer. It is further submitted that the affected party shall plead before the Commission directly.

- 3.4. It is submitted that the Respondent GETCO has filed preliminary reply on 10.06.2024 objecting the maintainability of present Petition reserving its right to file detailed reply on the merits of the Petitioner, if and when required.
4. Heard the parties. We note that the matter is listed first time for hearing. The Ld. Adv. appearing on behalf of the Respondent GETCO has raised preliminary objections with regard to maintainability of the present Petition. Further, the Respondent GETCO has filed its preliminary reply objecting to the maintainability of the Petition without addressing the issue on merit of the case.
- 4.1. Therefore, we are of the view that it is appropriate to hear the entire matter on all issues including the maintainability of the present Petition as well on the merit of the case to decide whether the relief sought in the Petition is to be allowed or not by the Commission, accordingly.
- 4.2. Considering above, we direct the Respondent GETCO to file its reply including on the issue of maintainability and merit of the case with a copy to the Petitioner within 4 weeks' time from the date of receipt of this Order. We further grant liberty to Petitioner to file rejoinder, if any, within 3 weeks' from the receipt of reply with a copy to the Respondent.
- 4.3. We note that the Petitioner has filed IA No. 23 of 2024 for urgent hearing. As the matter is listed for hearing, the plea made in the IA No. 23 of 2024 is satisfied and hence, the IA No. 23 of 2024 stands disposed of, accordingly .

5. Next date of hearing will be intimated separately.

6. Order accordingly.

Sd/-

**[S.R. Pandey]
Member**

Sd/-

**[Mehul M. Gandhi]
Member**

Place: Gandhinagar.

Date: 09/12/2024.



